

1 LAFAYETTE & KUMAGAI LLP  
2 GARY T. LAFAYETTE (State Bar No. 088666)  
3 REBECCA K. KIMURA (State Bar No. 220420)  
4 100 Spear Street, Suite 600  
5 San Francisco, California 94105  
6 Telephone: (415) 357-4600  
7 Facsimile: (415) 357-4605

8 Attorneys for Defendants  
9 ALLIED PROPERTY & CASUALTY INSURANCE  
10 COMPANY

11 DONALD T. MCMILLAN (State Bar No. 134366)  
12 McMILLAN & SHUREEN LLP  
13 50 Santa Rosa Avenue, Suite 200  
14 Santa Rosa, CA 95404  
15 Telephone: (707) 525-5400  
16 Facsimile: (707) 576-7955

17 Attorneys for Plaintiff  
18 CHAD EMPEY

19 UNITED STATES DISTRICT COURT

20 FOR THE NORTHERN DISTRICT OF CALIFORNIA

21 CHAD EMPEY,

Case No. 3:11-CV-00733-SC

22 Plaintiff,

23 vs.

24 ALLIED PROPERTY & CASUALTY  
25 INSURANCE COMPANY, and DOES 1 to  
26 50, inclusive,

27 Defendants.

JOINT STIPULATION AND [PROPOSED]  
ORDER TO CONTINUE THE TRIAL  
DATE

Complaint filed: January 20, 2011

Plaintiff CHAD EMPEY ("Plaintiff") and Defendant ALLIED PROPERTY & CASUALTY INSURANCE COMPANY ("Allied") (collectively, the "Parties") through their respective counsel present the following stipulation and proposed order regarding a continuance of the trial date, currently set for January 30, 2012, and a continuance of the discovery deadlines in this case so that the Parties can complete the depositions already noticed. This stipulation is based on the following:

WHEREAS, the Parties engaged in prolonged mediation activities with Thomas H.R.

1 Denver beginning on September 23, 2011, which did not conclude until November 14, 2011.  
 2 During that time, the Parties deferred all pending depositions and discovery until the mediation  
 3 process was completed. The Parties have since resumed discovery, and while the Parties have  
 4 been diligent in taking depositions, they will not be able to conclude all necessary depositions  
 5 already noticed within the discovery cutoff date as currently set. Moreover, as a result of  
 6 additional meeting and conferring, the Parties have agreed to engage in further mediation  
 7 discussions. The Parties agree that continuing the trial date to May 7, 2012 will allow the Parties  
 8 another opportunity to try to resolve this matter without trial. This stipulation is based on the  
 9 following:

10 WHEREAS, a Status Conference was held for this matter on May 27, 2011, where the  
 11 Court set the following dates:

12       1. Discovery Cutoff: November 30, 2011  
 13       2. Pretrial Conference Statement: No Date Set  
 14       3. Pretrial Conference: January 13, 2012  
 15       4. Jury Trial: January 30, 2012

16 WHEREAS, Defendant filed its Motion for Partial Summary Judgment on September 22,  
 17 2011 in accordance with the Status Conference, and the Court set the hearing for it for December  
 18 9, 2011;

19 WHEREAS, the Court thereafter continued the hearing date on the Motion for Partial  
 20 Summary Judgment to January 13, 2012;

21 WHEREAS the Court also continued the discovery deadlines as follows:

22       1. Non-Expert Discovery Cutoff: December 23, 2011;  
 23       2. Expert Disclosures: January 2, 2012;  
 24       3. Disclosure of Rebuttal Experts: December 30, 2011;  
 25       4. Expert Discovery Cutoff: January 12, 2012.  
 26       5. Last day to hear motions: January 13, 2012.

27 WHEREAS, the Parties respectfully request that the Court continue the trial date in this  
 28 matter and further modify the discovery deadlines such that the Parties can complete the

1 depositions already noticed as follows:

- 2       1. Non-Expert Discovery Cutoff: February 17, 2012;
- 3       2. Expert Disclosures: March 2, 2012;
- 4       3. Disclosure of Rebuttal Experts: March 16, 2012;
- 5       4. Expert Discovery Cutoff: April 6, 2012;
- 6       5. Last day to hear motions: April 6, 2012;
- 7       6. Pretrial Conference: To Be Determined
- 8       7. Jury Trial: May 7, 2012

9                   WHEREAS the hearing date for Defendant' motion would continue to be January 13,  
10                  2012.

11                  WHEREAS, in the interest of judicial economy and in hopes that this matter will resolve  
12 without the need for trial, the Parties seek to avoid unnecessary and costly trial preparation prior  
13 to the conclusion of all settlement efforts.

14                  WHEREAS, this is the Parties' first request for a trial continuance. No previous request  
15 has been made.

#### STIPULATION

17                  IT IS HEREBY STIPULATED AND AGREED TO BY AND BETWEEN THE  
18 PARTIES by and through their respective counsel of record herein that the trial date be continued  
19 and the discovery deadlines be continued such that the Parties may complete the depositions  
20 already noticed:

- 21       1. Trial be continued to May 7, 2012;
- 22       2. The Pre-trial Conference be continued to a date in conformity to the new  
23 trial date;
- 24       3. Non-Expert Discovery cutoff be continued to February 17, 2012;
- 25       4. The deadline for Expert Disclosures be continued to March 2, 2012;
- 26       5. Disclosure of Rebuttal Experts be continued to March 16, 2012;
- 27       6. Expert Discovery cutoff be continued to April 6, 2012;
- 28       7. The last day to hear motions be continued to April 6, 2012;

LAFAYETTE & KUMAGAI LLP  
ATTORNEYS AT LAW  
100 SPEAR STREET, SUITE 600  
SAN FRANCISCO, CALIFORNIA 94105  
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FAX (415) 357-4605

8. The hearing date for Defendant's motion for summary judgment would continue to be January 13, 2012.

## ORDER

The foregoing stipulation having been entered and good cause appearing therefor,

IT IS HEREBY ORDERED that:

The current deadlines for this case shall be modified as follows:

1. The new trial date is continued to May 7, 2012.
2. The new pre-trial conference date is continued to \_\_\_\_\_.
3. The new non-expert discovery cutoff is continued to February 17, 2012;
4. The new deadline for expert disclosures is continued to March 2, 2012;
5. The new deadline for disclosure of rebuttal experts is continued to March
6. The new expert discovery cutoff is continued to April 6, 2012;
7. The last day to hear motions is continued to April 6, 2012.
8. The hearing date for Defendant's motion for summary judgment will

continue to be January 13, 2012.

RATED: December 14, 2011

/s/ Donald T. McMillan

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Attorneys for Plaintiff CHAD EMPEY

DATED: December 14, 2011

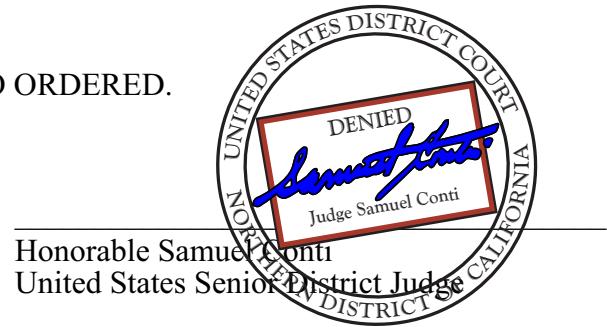
/s/ *Gary T. Lafayette*

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Attorneys for Defendant ALLIED PROPERTY & CASUALTY INSURANCE COMPANY

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 12/14/11



**CERTIFICATE OF SERVICE**

I certify that a copy of this document was served electronically on December 14, 2011, on counsel of record in compliance with Federal Rule 5, Local Rule 5.6 and General Order 45, by use of the Court's ECF system.

/s/ Rebecca K. Kimura  
REBECCA K. KIMURA

**LAFAYETTE & KUMAGAI LLP**  
ATTORNEYS AT LAW  
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